

CLOSED,TYPE I-FOIA

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-01270-ABJ**

CENTER FOR BIOLOGICAL DIVERSITY v. UNITED
STATES ENVIRONMENTAL PROTECTION AGENCY
Assigned to: Judge Amy Berman Jackson
Cause: 05:552 Freedom of Information Act

Date Filed: 06/28/2017
Date Terminated: 03/27/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**CENTER FOR BIOLOGICAL
DIVERSITY**

represented by **Catherine Cain Ware Kilduff**
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V.

Defendant

**UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY**

represented by **Derek S. Hammond**
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TERMINATED: 02/15/2019

Date Filed	#	Docket Text
06/28/2017	<u>1</u>	COMPLAINT against UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Filing fee \$ 400 receipt number 0090-5010232) filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons)(Connor, Hannah) (Entered: 06/28/2017)
06/28/2017	<u>2</u>	Corporate Disclosure Statement by CENTER FOR BIOLOGICAL DIVERSITY. (Connor, Hannah) (Entered: 06/28/2017)
06/28/2017	<u>3</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Emily Jeffers, :Firm- Center for Biological Diversity, :Address- 1212 Broadway, Suite 800, Oakland, CA 94612. Phone No. - (510) 844-7109. Fax No. - n/a Filing fee \$ 100, receipt number 0090-5010291. Fee Status: Fee Paid. by CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Connor, Hannah) (Entered: 06/28/2017)
06/30/2017		Case Assigned to Judge Amy Berman Jackson. (zsb) (Entered: 06/30/2017)
06/30/2017	<u>4</u>	SUMMONS (3) Issued Electronically as to UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Form)(zsb) (Entered: 06/30/2017)
06/30/2017		MINUTE ORDER granting <u>3</u> Motion for Leave of Emily Jeffers to Appear Pro Hac Vice only upon condition that the lawyer admitted, or at least one member of the lawyer's firm, undergo CM/ECF training, obtain a CM/ECF username and password, and agree to file papers electronically. No court papers will be mailed to any lawyer. Signed by Judge Amy Berman Jackson on 6/30/17. (DMK) (Entered: 06/30/2017)
07/26/2017	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 7/13/2017. Answer due for ALL FEDERAL DEFENDANTS by 8/12/2017. (Attachments: # <u>1</u> Exhibit Certified Mail Return Receipts)(Connor, Hannah) (Entered: 07/26/2017)
07/26/2017	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 07/13/2017. (Attachments: # <u>1</u> Exhibit Certified Mail Return Receipts)(Connor, Hannah) (Entered: 07/26/2017)
07/26/2017	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY served on 7/11/2017 (Attachments: # <u>1</u> Exhibit Certified Mail Return Receipts)(Connor, Hannah) (Entered: 07/26/2017)
08/11/2017	<u>8</u>	ANSWER to Complaint by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.(Peterson, Benton) (Entered: 08/11/2017)
08/11/2017		MINUTE ORDER. Before the Court in this FOIA case are a complaint and an answer. The requirements of Local Civil Rule 16.3 and Rule 26(f) of the Federal Rules of Civil Procedure appear to be inapplicable. Defendant shall file a dispositive motion or, in the alternative, a report setting forth the schedule for the completion of its production of documents to plaintiff on or before September 11, 2017. SO ORDERED. Signed by Judge Amy Berman Jackson on 8/11/2017. (lcabj3) (Entered: 08/11/2017)
09/11/2017	<u>9</u>	STATUS REPORT <i>Setting Forth Proposed Production Scedule</i> by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Peterson, Benton) (Entered: 09/11/2017)

09/12/2017		MINUTE ORDER. The parties shall file a joint status report by November 1, 2017, to inform the Court whether further proceedings are necessary in this matter, and to propose a briefing schedule, if necessary. SO ORDERED. Signed by Judge Amy Berman Jackson on 9/12/2017. (lcabj3) (Entered: 09/12/2017)
10/17/2017	<u>10</u>	Joint MOTION for Extension of Time to File by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Peterson, Benton) (Entered: 10/17/2017)
10/17/2017		MINUTE ORDER granting <u>10</u> parties' motion for an extension of time to file a joint status report by November 8, 2017. SO ORDERED. Signed by Judge Amy Berman Jackson on 10/17/2017. (lcabj3) (Entered: 10/17/2017)
11/08/2017	<u>11</u>	NOTICE of Appearance by Catherine Cain Ware Kilduff on behalf of CENTER FOR BIOLOGICAL DIVERSITY (Kilduff, Catherine) (Entered: 11/08/2017)
11/08/2017	<u>12</u>	STATUS REPORT AND PROPOSED BRIEFING SCHEDULE by CENTER FOR BIOLOGICAL DIVERSITY. (Connor, Hannah) (Entered: 11/08/2017)
11/09/2017		MINUTE ORDER. Since transmitting a Vaughn index to plaintiff prior to filing a motion for summary judgment may narrow the issues, the Court will include it in the schedule. Based on the proposals in the status report and defense counsel's representations concerning scheduling demands, the schedule will be as follows: defendant must provide plaintiff with its Vaughn index on December 18, 2017; plaintiff must identify those withholdings to which it objects by January 3, 2018; the parties will submit a proposed schedule for further proceedings, if any, by January 5, 2018. Signed by Judge Amy Berman Jackson on 11/09/2017. (lcabj3) (Entered: 11/09/2017)
01/05/2018	<u>13</u>	STATUS REPORT AND PROPOSED BRIEFING SCHEDULE by CENTER FOR BIOLOGICAL DIVERSITY. (Kilduff, Catherine) (Entered: 01/05/2018)
01/08/2018		MINUTE ORDER. The parties are ordered to meet and confer and to submit a joint status report by February 14, 2018, which should include a proposed schedule for further proceedings if necessary. Signed by Judge Amy Berman Jackson on 01/08/2018. (lcabj3) (Entered: 01/08/2018)
02/14/2018	<u>14</u>	Joint STATUS REPORT and Proposed Briefing Schedule by CENTER FOR BIOLOGICAL DIVERSITY. (Jeffers, Emily) (Entered: 02/14/2018)
02/15/2018		MINUTE ORDER. It is hereby ordered that defendant shall file its motion for summary judgment by March 16, 2018. Plaintiff's opposition (and cross motion, if any, supported by the same memorandum of points and authorities) will be due April 16, 2018. Defendant's reply (combined with its cross opposition, if necessary) will be due May 22, 2018. Plaintiff's cross reply, if any, will be due June 22, 2018. Signed by Judge Amy Berman Jackson on 02/15/2018. (lcabj3) (Entered: 02/15/2018)
03/16/2018	<u>15</u>	MOTION for Summary Judgment by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Exhibit, # <u>3</u> Text of Proposed Order)(Peterson, Benton) (Entered: 03/16/2018)
04/16/2018	<u>16</u>	Cross MOTION for Summary Judgment by CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # <u>1</u> Text of Proposed Order Text of Proposed Order, # <u>2</u> Statement of Facts Statement of Facts, # <u>3</u> Declaration Declaration of Catherine Kilduff, # <u>4</u> Declaration Declaration of Brett Hartl, # <u>5</u> Exhibit Ex. A to Decl. of Brett Hartl, # <u>6</u> Exhibit Ex. B to Decl. of Brett Hartl, # <u>7</u> Exhibit Ex. C to Decl. of Brett Hartl, # <u>8</u> Exhibit Ex. D to Decl. of Brett Hartl, # <u>9</u> Exhibit Ex. E to Decl. of Brett Hartl, # <u>10</u> Exhibit Ex. F to Decl. of Brett Hartl, # <u>11</u> Exhibit Ex. G to Decl. of Brett Hartl)(Connor, Hannah) (Entered: 04/16/2018)
04/16/2018	<u>17</u>	Memorandum in opposition to re <u>15</u> MOTION for Summary Judgment , <i>Local Rule 7(h) Statement and Accompanying Memorandum</i> filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Statement of Facts Plaintiff's Response to Defendant's Statement of Facts)(Connor, Hannah) (Entered: 04/16/2018)
05/16/2018	<u>18</u>	Unopposed MOTION for Extension of Time to <i>File Oppositions and Replies</i> by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u>

		Text of Proposed Order)(Peterson, Benton) (Entered: 05/16/2018)
05/18/2018		MINUTE ORDER granting <u>18</u> Motion for Extension of Time. Defendant's reply, combined with its cross opposition, will be due June 1, 2018. Plaintiff's cross reply will be due July 9, 2018. Signed by Judge Amy Berman Jackson on 05/18/2018. (lcabj3) (Entered: 05/18/2018)
05/31/2018	<u>19</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>16</u> Cross MOTION for Summary Judgment by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Peterson, Benton) (Entered: 05/31/2018)
06/01/2018		MINUTE ORDER granting <u>19</u> Motion for Extension of Time. Defendant's reply, combined with its cross opposition, will be due June 7, 2018. SO ORDERED. Signed by Judge Amy Berman Jackson on 06/01/2018. (lcabj3) (Entered: 06/01/2018)
06/04/2018		Set/Reset Deadlines: Defendant's Cross-Motion and Reply due by 6/7/2018. (tg) (Entered: 06/04/2018)
06/07/2018	<u>20</u>	Memorandum in opposition to re <u>16</u> Cross MOTION for Summary Judgment <i>and Reply in Support of Defendant's Motion for Summary Judgment</i> filed by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit)(Peterson, Benton) (Entered: 06/07/2018)
06/07/2018	<u>21</u>	REPLY in support re <u>15</u> MOTION for Summary Judgment filed by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (See Docket Entry <u>20</u> to view document) (jf) (Entered: 06/11/2018)
06/22/2018	<u>22</u>	Unopposed MOTION for Extension of Time to File Response/Reply by CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # <u>1</u> Text of Proposed Order)(Jeffers, Emily) (Entered: 06/22/2018)
06/25/2018		MINUTE ORDER granting <u>22</u> Motion for Extension of Time. Plaintiff's cross-reply must be filed by July 20, 2018. Signed by Judge Amy Berman Jackson on 06/25/2018. (lcabj3) (Entered: 06/25/2018)
07/20/2018	<u>23</u>	REPLY to opposition to motion re <u>16</u> Cross MOTION for Summary Judgment filed by CENTER FOR BIOLOGICAL DIVERSITY. (Jeffers, Emily) (Entered: 07/20/2018)
07/24/2018	<u>24</u>	ENTERED IN ERROR.....Memorandum in opposition to re <u>15</u> MOTION for Summary Judgment <i>and Reply in Support of Plaintiff's Motion for Summary Judgment</i> filed by CENTER FOR BIOLOGICAL DIVERSITY. (Connor, Hannah) Modified on 7/24/2018 (zjf). (Entered: 07/24/2018)
07/24/2018		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>24</u> Memorandum in Opposition, was entered in error as a duplicate filing. (See Docket Entry <u>23</u> to view document). (jf) (Entered: 07/24/2018)
08/14/2018	<u>25</u>	ERRATA by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY <u>15</u> MOTION for Summary Judgment filed by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Exhibit)(Peterson, Benton) (Entered: 08/14/2018)
02/12/2019		MINUTE ORDER. Defendant is directed to deliver to chambers unredacted versions of 17 of the records in dispute for in camera inspection, as this will assist the Court in making a responsible de novo determination. See Ray v. Turner, 587 F.2d 1187, 1195 (D.C. Cir. 1978). Specifically, by February 15, 2019, defendant must deliver the records that correspond to Vaughn index pages 8, 9, 10, 11, 13, 15, 23, 27, 31, 32, 36, 37, 38, 45, 47, 55, and 66, and it must docket a notice indicating that it has done so. SO ORDERED. Signed by Judge Amy Berman Jackson on 02/12/2019. (lcabj3) (Entered: 02/12/2019)
02/15/2019	<u>26</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Derek S. Hammond on behalf of All Defendants Substituting for attorney Benton G. Peterson (Hammond, Derek) (Entered: 02/15/2019)
02/15/2019	<u>27</u>	NOTICE of Delivery of Documents for In Camera Inspection by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Hammond, Derek) (Entered: 02/15/2019)

03/27/2019	<u>28</u>	ORDER. Pursuant to Federal Rules of Civil Procedure 56 and 58, and for the reasons stated in the accompanying Memorandum Opinion, it is hereby ORDERED that defendant's motion for summary judgment <u>15</u> is GRANTED. It is FURTHER ORDERED that plaintiff's cross-motion for summary judgment <u>16</u> is DENIED. This is final appealable order. SO ORDERED. Signed by Judge Amy Berman Jackson on 03/27/2019. (lcabj3) (Entered: 03/27/2019)
03/27/2019	<u>29</u>	MEMORANDUM OPINION. Signed by Judge Amy Berman Jackson on 03/27/2019. (lcabj3) (Entered: 03/27/2019)